

**REMARKS**

Claims 1-10 and 12 remain pending in the present application. Claims 6-10 are amended to resolve formal matters. No new matter is entered.

**Rejection under 35 U.S.C. §103(a) over Cogan in view of DeNicola, Jr.**

Claims 1 through 4, 7 through 10 and 12 stand rejected under 35 U.S.C. §103(a) as obvious over Cogan in view of DeNicola, Jr. The Examiner is of the view that:

Cogan teaches a coaxial cable comprising a dielectric layer that can be propylene homo- or copolymer, but is silent as to the propylene having strain hardening behavior.

DeNicola discloses propylene having strain hardening behavior which can be used as wire and cable coating, wherein said propylene can be blended with other propylene homo or copolymer materials or ethylene homo- or copolymers, as required by claims 1 and 2. See entire document, and for example, column 9, lines 5-29.  
...

Therefore, the combined teachings of Cogan and DeNicola would have rendered obvious the invention as claimed in present claims 1-4 and 7-10 and 12.

Applicants traverse this basis for rejection and respectfully request reconsideration and withdrawal thereof.

Applicants reiterate their comments in traverse of the application of the cited references as to the present claims, as set forth in their previous response of July 9, 2008.

As recognized by the Examiner, Cogen fails to disclose the use of a strain hardened polypropylene as a dielectric layer in a coaxial cable.

DeNicola, Jr. discloses a process for producing strain hardened polypropylene, and that the resulting polymer "can be converted into useful products by extrusion coating, including...wire and cable coating..." (col. 9, lines 6-9).

At page 2 of the outstanding Office Action, the Examiner concludes:

It would have been obvious...to use as the dielectric layer of Cogan [sic], a propylene homo or copolymer as taught by DeNicola with the reasonable expectation of success of obtaining a dielectric layer having a more uniform cell size when foamed. (Office Action, page 2, last paragraph).

Applicants traverse the Examiner's conclusion for at least three reasons.

### ***Improper Motivation to Combine***

First, while Cogen expresses a desire for uniform cell distribution in a foamed dielectric layer (page 3, lines 29-30), he fails to disclose or suggest that even his preferred polymers achieve this goal. In fact, the Cogen invention is directed to forming coaxial cables which are thermally stable over long periods of time (page 2, lines 56-57), by inclusion of an alkyhydroxyphenylalkanoyl hydrazine stabilizer additive.

Cogen is entirely silent as to any manner of improving the uniformity of cell size from foaming.

Similarly, DeNicola, Jr. is silent regarding any manner of enhancing the uniformity of foam cell sizes; and is in fact silent regarding foaming whatsoever.

Accordingly, the Examiner's purported "reasonable expectation of success" in obtaining more uniform cell size by substituting the strain hardened polypropylene of DeNicola, Jr. for the dielectric layer of Cogen appears to have been derived from the ether. No such motivation can be derived from either of the cited references.

Withdrawal of the rejection is requested, as no *prima facie* case of obviousness has been established absent a proper motivation to combine.

***Impermissible Hindsight***

Further, the Examiner's attention is directed to the actual language of DeNicola, Jr., quoted above, wherein he suggests that his polypropylene can be used as a "coating" for wire or cable. A "coating" is not necessarily the dielectric layer, but can be an outer layer.

Cogen discloses that his coaxial cable comprises an inner electrical conductor, a polymer dielectric layer, and an outer conductor "covering the dielectric layer" (page 2, last line, bridging to page 3, line 9). Cogen further discloses that the coaxial cable can contain "an outer jacket" (page 3, line 17).

It is unclear from the actual text of the references in combination, whether DeNicola, Jr. fairly suggests the use of his polypropylene as a dielectric layer, or merely as a covering layer. There is no evidence within the DeNicola, Jr. reference which would suggest to the skilled artisan that any particular electrically-related benefit could be derived from use of his polymer as a dielectric layer.

Accordingly, Applicants submit that the Examiner's proposed substitution amounts to a leap of faith and is based upon an impermissible hindsight reconstruction of the presently claimed invention, and not upon the teachings of the references themselves. Withdrawal of the rejection is requested on this basis.

***Failure to Disclose Each Claim Limitation***

Finally, there is no evidence whatsoever that the DeNicola, Jr. strain hardened polymer meets the limitations of claim 1; i.e. having a haul off force  $F_{\max} > 5$  cN and a draw down velocity  $v_{\max} > 150$ mm/s. Thus, even in combination, the cited references fail to disclose each and every limitation of the claims. Withdrawal of the rejection is requested on this basis.

In view thereof, it is respectfully requested that the grounds for rejection of claims 1 through 4, 7 through 10 and 12 under 35 U.S.C. 103(a) as being unpatentable over Cogan, EP Publication No. EP 0961,295 A1, in view of DeNicola, Jr., U.S. Patent No. 5,047,446, be removed.

**Rejection under 35 U.S.C. §103(a) over Cogan in view of DeNicola, Jr. and further in view of Comer**

Claims 5-6 stand rejected under 35 U.S.C. §103(a) as obvious over Cogan in view of DeNicola, Jr., and further in view of Comer. The Examiner is of the view that:

Cogan and DeNicola are as set forth above. Though DeNicola teaches that his propylene can be mixed with other propylene or ethylene homo or copolymers, he is silent as to the specific amounts. Comer teaches a polyolefin composition comprising a propylene polymer having strain hardening behavior present in an amount of from 5 to 95% by weight and a non-strain hardening behavior propylene polymer present in an amount of

from 95 to 5% by weight having improved thermoformability. Comer teaches that compositions containing strain hardening behavior propylene and at least 50 wt% of a non-strain hardening behavior propylene are known in the art. It would have been obvious to one having ordinary skill in the art to form a blend of a strain hardening propylene and a non-strain hardening propylene as taught by DeNicola, wherein the non-strain hardening propylene is present in an amount of at least 50 wt% as taught by Comer to achieve the predictable results of obtaining a polymer having good mechanical properties and thermoformability. ...

Therefore, the combined teachings of Cogan, DeNicola, and Comer would have rendered obvious the invention as claimed in present claim 5.

Applicants traverse this basis for rejection and respectfully request reconsideration and withdrawal thereof.

Applicants reiterate their comments in traverse of the application of the cited references as to the present claims, as set forth in their previous response of July 9, 2008, and reiterate the discussion above relative to the combination of Cogen and DeNicola, Jr.

Comer fails to cure the deficiencies of Cogen and DeNicola, Jr. Comer is silent regarding dielectric properties of his materials, and provides no motivation to combine his teachings with either or both of Cogen or DeNicola, Jr. The reduced gloss and "improved thermoformability" of the Comer compositions is entirely irrelevant to the use as a dielectric in a coaxial cable, such as in Cogen.

In view thereof, it is respectfully requested that the grounds for rejection of claims 5 and 6 under 35 U.S.C. 103(a) as being unpatentable over Cogan, EP Publication No. EP 0961,295 A1, in view of DeNicola, Jr., U.S. Patent No. 5,047,446, in further view of Comer, EP Publication No. EP 0634,454 A1, be removed.

**Rejection under 35 U.S.C. §112**

Application No.: 10/538,327  
Dated: February 13, 2009  
Response to Official Action of November 18, 2008

Claims 8 through 10 stand rejected under 35 U.S.C. §112, second paragraph as indefinite. Applicants traverse this basis for rejection and respectfully request reconsideration and withdrawal thereof.

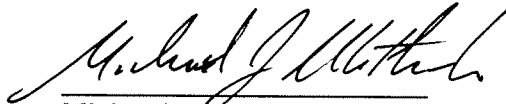
While not necessarily agreeing with the instant grounds for rejection, the applicants have amended claims 8 through 10, rendering the grounds for rejection moot. In view thereof, it is respectfully requested that the rejection of claims 8 through 10 under 35 U.S.C. §112, second paragraph, be removed.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 50-2478 (12466).

In view of the foregoing, it is respectfully submitted that the present claims are in condition for allowance. Prompt notification of allowance is respectfully solicited.

Respectfully submitted,

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Michael J. Mlotkowski  
Attorney for Applicants  
Registration No. 33,020  
(703) 584-3270

POST OFFICE ADDRESS to which  
correspondence is to be sent:

Roberts, Mlotkowski Safran & Cole  
P.O. Box 10644  
McLean, VA 22102